

NORTHWEST HORTICULTURAL COUNCIL

6 SOUTH 2ND STREET, ROOM 800
YAKIMA, WASHINGTON 98901 USA
(509) 453-3193 FAX (509) 457-7615
www.nwhort.org

January 23, 2003

A. J. Yates
Administrator
USDA Agricultural Marketing Service
1400 Independence Ave., SW
Room 3071-S
Washington, DC 20250

Dear Secretary Yates:

The Northwest Horticultural Council (NHC) welcomes the opportunity to comment on the Federal Register notice published on November 21, 2002 concerning implementation of a country of origin labeling program by the Agricultural Marketing Service (AMS). The NHC represents the growers, packers and shippers of deciduous tree fruit in Idaho, Oregon, and Washington on federal issues. Our comments relate only to that aspect of the notice related to Perishable Agricultural Commodities, i.e., fresh fruits and vegetables.

We believe that the total cost estimate of approximately \$2 billion for the full implementation of country of origin labeling greatly overstates costs associated with keeping adequate records to verify country of origin claims at the point of sale. Those in our industry who would be subject to the record keeping requirements under the voluntary country of origin labeling guidelines must already comply with the requirements of the Perishable Agricultural Commodities Act (PACA). In most cases, PACA sales records would serve to verify country of origin or could be easily modified to do so. In addition, PACA record keeping requirements have the same applicability thresholds, requirement to track by lot, and retention period as those of the country of origin labeling program.

In the case of the Pacific Northwest tree fruit industry, many of our products are already voluntarily labeled with state or region of origin stickers identifying them as, for example, Washington apples or Northwest cherries. As a labeling claim, fruit marked with these stickers is already subject to record keeping and verification requirements under PACA, including penalties for misrepresentation. No new procedures or costs should be necessary to verify country of origin.

In our comments submitted to the AMS during the development of the voluntary country of origin labeling program, the NHC encouraged the agency to accept state or region of origin labels for the purposes of the new federal country of origin labeling requirement. While AMS has determined that the statute requires labeling for country of origin in

addition to any state or regional labels, it should be clear that these state and regional labels provide retailers with adequate proof of the country of origin. We think that the agency's earlier decision should be revisited. The NHC therefore suggests that the guidelines being developed for the mandatory country of origin labeling program specifically state that a label indicating origin in a state or region of the United States be considered sufficient compliance for a retailer under the program.

Again, we do not think that the cost of record keeping for any reasonable program will be burdensome on either retailers or suppliers of fresh fruits and vegetables. If a shipping container of pears purchased by the retailer says it originated in Oregon, then the pears at the retail shelf should say product of Oregon or USA. If the container of pears is from New Zealand the fruit should be labeled so that the consumer at retail can clearly determine that it is from that country.

In terms of general enforcement, the NHC does not see the need for an extensive record keeping regime to enforce the clear congressional intent and simple proposition that consumers be given information at retail as to where fresh fruits and vegetables are grown. We believe there will be widespread voluntary compliance with the mandatory country of origin labeling program. Initial enforcement should not focus on fines but on educating retailers as to the new program. Should formal enforcement action be needed, it should be supported by existing information required by such laws as PACA. Additional record keeping by retailers, growers or shippers should not be necessary.

Thank you for this opportunity to comment on this important issue of interest to the Pacific Northwest tree fruit industry.

Sincerely,

NORTHWEST HORTICULTURAL COUNCIL



Jonathan DeVaney

Director of Legislative and Regulatory Affairs

cc: Country of Origin Labeling Program, USDA/AMS
Office of Management and Budget
Clearance Officer, USDA-OCIO
Trustees & Member Secretaries
United Fresh Fruit & Vegetable Assn.
U. S. Apple Assn.